

**MOUNTAIN VIEW ORCHARDS, BLOCK 12, LOT B, AP (ZECH)  
FIVE-LOT MINOR SUBDIVISION WITH ONE VARIANCE REQUEST**  
(Referred back to Planning Board by BCC on March 14, 2006)

**\*\*\* STAFF REPORT FOR SECOND PLANNING BOARD MEETING\*\*\***

**CASE PLANNER:**

Benjamin H. Howell

*BH*

**REVIEWED AND  
APPROVED BY:**

Renee Van Hoven

*RVH*

**PUBLIC HEARINGS,  
MEETINGS AND  
DEADLINES:**

RCPB Public Hearing (First):	February 1, 2006
BCC Public Meeting (First):	March 14, 2006
RCPB Public Hearing (Second):	May 3, 2006
Deadline for PB recommendation to BCC:	June 7, 2006
BCC Public Meeting (Second):	9:00 a.m. May 25, 2006
(Unless PB delays decision)	
Deadline for BCC action (35 working days):	June 22, 2006

**APPLICANT / OWNER:**

Steven Zech  
70 Angel Lane  
Hamilton, MT 59840

**REPRESENTATIVE:**

Leonard Shepherd with Shepherd Survey, 363-1086

**LOCATION OF REQUEST:**

The property is located approximately five miles northeast of Corvallis off Sutherland Lane. (Map1)



**Map 1: Location Map**  
(Source Data: Ravalli County Planning Department)

**LEGAL DESCRIPTION  
OF PROPERTY:**

Lot B of Amended Plat # 542883 of Block 12, Mountain View Orchards Subdivision, located in the E½, Section 15, T7N, R20W, P.M.M., Ravalli County, Montana.

**APPLICATION  
INFORMATION:**

The first public hearing before the Planning Board for the Mountain View Orchards Block 12, Lot B, AP was February 1, 2006 (Exhibit A: Planning Board Meeting Minutes). The first public meeting before the Board of County Commissioners (BCC) was March 14, 2006 (Exhibit C: BCC Meeting Minutes). At this meeting, the BCC determined there was "new information" regarding impacts to public health and safety from the multiple accesses. Since the "new information" must be presented to the public, a second public hearing was scheduled before the Planning Board. The updated subdivision application was determined sufficient on April 13, 2006. Agencies were notified of the updated proposal and comments received by the Planning Department are Exhibits A-1 through A-8 of the staff report.

**LEGAL NOTIFICATION:**

A legal advertisement was published in the Ravalli Republic on April 18, 2006. Notice of the project was posted on the property, and adjacent property owners were notified of the subdivision and variance request by certified mail postmarked April 18, 2006. The public comment submitted with the original staff report is Exhibit B-1. No new public comments regarding the changes to the original proposal have been received to date.

**DEVELOPMENT  
PATTERN:**

Subject property	Large lot residential and agriculture
North	Large lot residential
South	Large lot residential and agriculture
East	Large lot residential and agriculture
West	Large lot residential

RAVALLI COUNTY PLANNING BOARD

MAY 3, 2006

MOUNTAIN VIEW ORCHARDS, BLOCK 12, LOT B, AP (ZECH)  
FIVE-LOT MINOR SUBDIVISION WITH ONE VARIANCE REQUEST  
\*\*\*SECOND PLANNING BOARD MEETING\*\*\*

RECOMMENDED MOTIONS

1. That the variance request from Section 5-4-5(b)(2) of the Ravalli County Subdivision Regulations, to allow Coyote Creek Drive to be improved to meet two-lot local road standards with the exception of a 40-foot wide public access and utility easement and a 20-foot wide gravel travel surface, **be denied**, based on the findings of fact and conclusions of law in the staff report.
2. That the Mountain View Orchards, Block 12, Lot B, AP (Zech) minor subdivision **be approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

**Notification of Proximity to Agricultural Operations.** This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Effects on Agriculture*)

**Notification of Irrigation Easements.** Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water right holders have the right to maintain and repair their irrigation facilities/diversion structures whenever necessary to keep them in good condition. The Bitterroot Irrigation District and Mountain View Water Users Association must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act which damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders and those acting with the approval of the Bitterroot Irrigation District and Mountain View Water Users Association have the right to use the easements to maintain the ditches. Please contact the Bitterroot Irrigation District, 1182 Lazy J Lane, Corvallis, Montana, 59828, 961-1182, and the Mountain View Water Users Association, 477 Bailey Lane, Corvallis, Montana, 59828, 961-4343 for more information. (*Effects on Agricultural Water User Facilities*)

**Notification of Road Maintenance.** Ravalli County, the State of Montana, or any other governmental entity does not maintain the internal subdivision roads providing access to the lots within this subdivision, and therefore does not assume any liability for improper maintenance or the lack thereof. A Road Maintenance Agreement was filed with this subdivision and outlines what parties are responsible for road maintenance and under what conditions. (*Effects on Local Services and Effects on Public Health & Safety*)

**Limitation of Access onto a County Road.** A "no ingress/egress" restriction is located along the Sutherland Lane frontage of the subdivision, which precludes vehicular access onto this County-maintained road, excepting the approved approach for the internal road system. This limitation of access may be lifted or amended with approval of the County. *(Effects on Local Services & Effects on Public Health and Safety)*

2. Protective covenants to be filed with the final plat shall include the following provisions:

**Living with Wildlife.** (See Exhibit A-1 for required provisions.) *(Effects on Agriculture & Effects on Wildlife and Wildlife Habitat)*

**Waiver of Protest to Creation of RSID/SID.** Owners and their successors in interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to creating and/or improving a community water or wastewater treatment system and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

**Access Requirements for Lots within this Subdivision.** The Corvallis Rural Fire District has adopted the Uniform Fire Code. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6", maximum grade of 6%, and an all weather surface that can accommodate the weight of a fire truck to meet requirements of the Uniform Fire Code. Please contact the Corvallis Rural Fire District at PO Box 13, Corvallis, MT, for further information on the requirements of the Corvallis Rural Fire District and/or the Uniform Fire Code. *(Effects on Local Services & Effects on Public Health and Safety)*

**Required Posting of County-Issued Addresses for Lots within this Subdivision.** The Corvallis Rural Fire District has adopted the Uniform Fire Code which requires the lot owners to post the County-issued addresses at the intersection of the driveways leading to the residences and internal subdivision roads as soon as construction on the residences begins. *(Effects on Local Services & Effects on Public Health and Safety)*

**Primary Heat Source.** The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. *(Effects on Natural Environment)*

**Control of Noxious Weeds.** Lot owners shall control the growth of noxious weeds on their respective lot(s). *(Effects on Natural Environment)*

**Lighting for New Construction.** Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. *(Effects on Public Health & Safety)*

**Radon Exposure.** The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. *(Effects on Public Health and Safety)*

**Amendment.** The covenants filed with the final plat shall state that written Governing Body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval.

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. *(Effects on Local Services)*
4. The applicant shall place an encumbrance of \$250 per lot to be paid to the Corvallis School District upon first conveyance, including lease or rent, of each lot on the final plat. *(Effects on Local Services)*
5. The applicant shall provide a letter from the Corvallis Rural Fire District stating that they have provided the required 1,000 gallons per minute water supply or 2,500 gallons per minute water storage for fire protection for each lot within this subdivision. Alternatively, the applicant may provide evidence that a \$500 per lot contribution has been made to the Corvallis Rural Fire District prior to final plat approval. *(Effects on Local Services - Fire Protection & Effects on Public Health and Safety)*
6. The applicant shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision, in accordance with E-911 addressing policy. *(Effects on Local Services & Effects on Public Health and Safety)*
7. An internal road system with one access off Sutherland Lane shall access all lots within the subdivision. *(Effects on Local Services and Effects on Public Health & Safety)*
8. The applicant shall install a stop sign at the intersection of the internal road system and Sutherland Lane, subject to the review and approval of the Planning Department in consultation with the Road Department. *(Effects on Local Services & Effects on Public Health & Safety)*
9. All internal subdivision roads shall be labeled as privately-maintained roads within public road and utility easements on the final plat. *(Effects on Local Services)*
10. The applicant shall provide for an additional five feet of easement along the Sutherland Lane frontage of the subdivision on the final plat. *(Effects on Local Services)*
11. The final plat shall show a no ingress/egress zone along the Sutherland Lane frontage of the subdivision, excepting the approach for the internal road system approved by the County Road Department. *(Effects on Local Services & Effects on Public Health & Safety)*.
12. The developer shall place the following *Notification of Proximity to Agricultural Operations* on the final plat: *This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (Effects on Agriculture)*

## **INTRODUCTION**

The developer originally proposed two common accesses for Lots B1 through B3 and that Lots B4 and B5 would access off the internal subdivision road, Coyote Creek Drive. A total of three accesses were proposed. At the BCC meeting on March 14, 2006, the BCC determined that the anticipated traffic on Sutherland Lane and the Ravalli County Road and Bridge Department's Access Encroachment Policy are "new information" that needs to be presented to the public. The BCC had concerns that the three proposed accesses would have negative impacts on public health and safety and wanted the "new information" to be part of the record. When "new information" is presented, the proposed subdivision has to go back to the Planning Board for a public hearing. Comments from the public can only be taken on the "new information."

The developer is now proposing one common access to access Lots B1 and B2, with Lots B3, B4 and B5 accessing off Coyote Creek Drive. A total of two accesses is now proposed.

The applicant is requesting a variance from Section 5-4-5(b)(2) of the Ravalli County Subdivision Regulations, to allow Coyote Creek Drive, a proposed privately-maintained road that would access Lots B3, B4 and B5 of the subdivision, to be built to two-lot local road standards, with the exception of a 40-foot wide public access and utility easement and a 20-foot wide gravel travel surface.

*Staff recommends denial of the variance request and conditional approval of the subdivision proposal.*

## SUBDIVISION REPORT

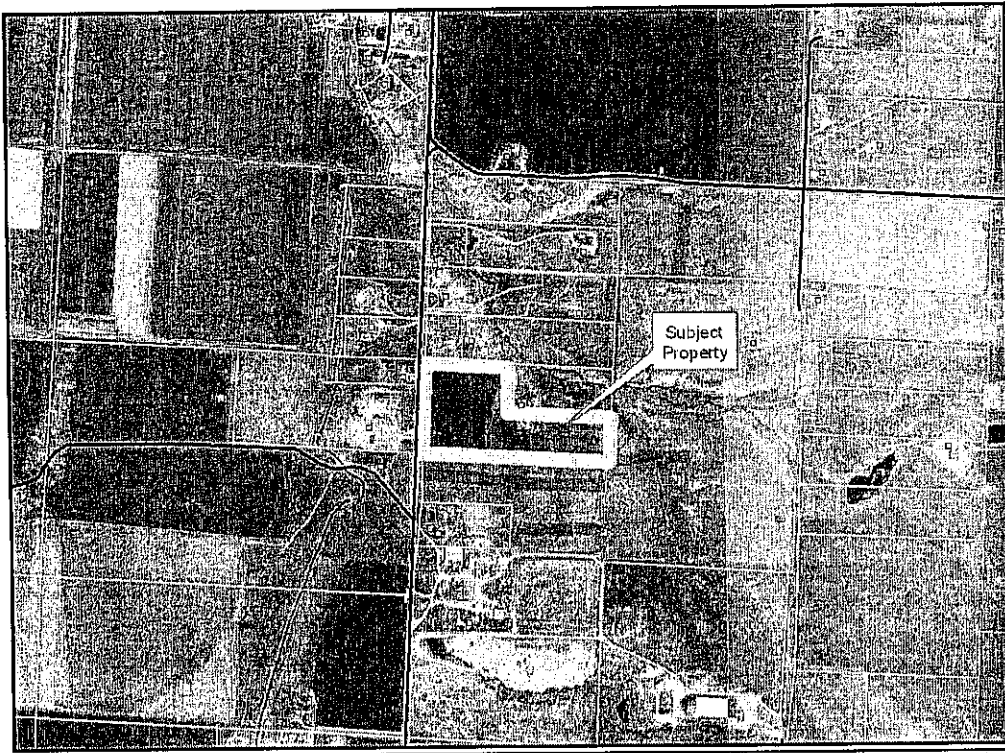
### COMPLIANCE WITH PRIMARY SUBDIVISION REVIEW CRITERIA

**CRITERION 1: EFFECTS ON AGRICULTURE** *(Staff Note: The new configuration of accesses of the subdivision proposal does not affect agriculture; therefore, no changes have been made to Effects on Agriculture regarding access. However, staff added findings to Effects on Agriculture.)*  
Findings of Fact:

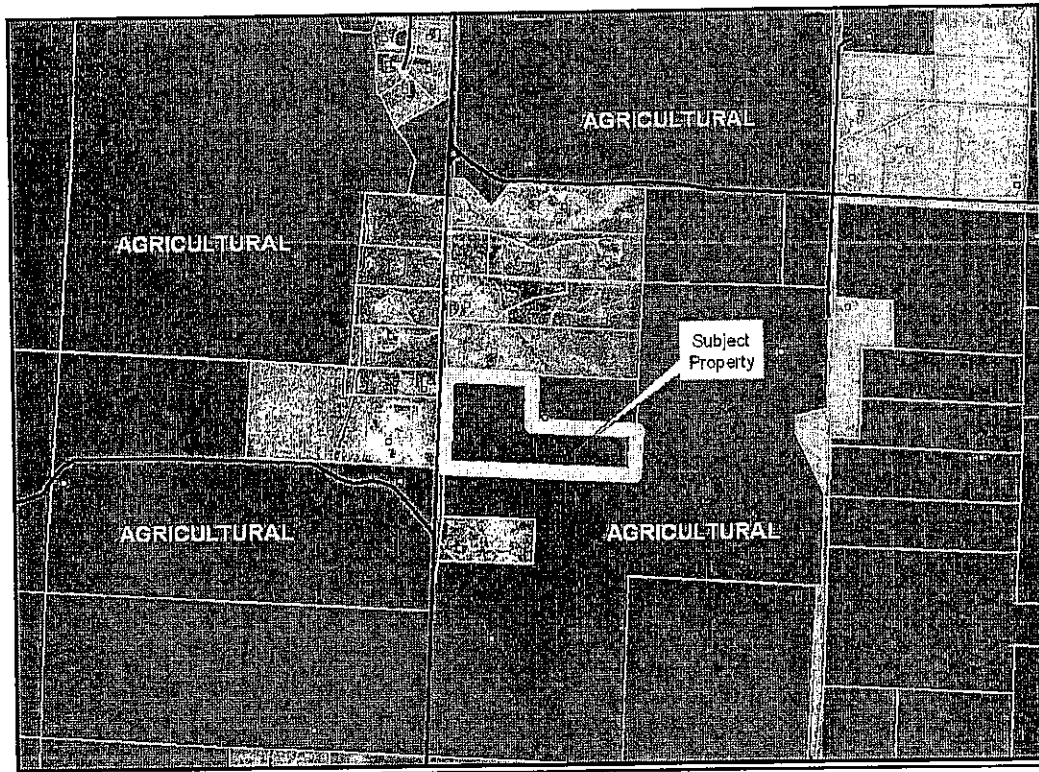
1. The proposed minor subdivision on 13.41 acres will result in five lots that range in size from 2.57 to 2.97 acres. The property is located approximately five miles from Corvallis.
2. The property is immediately adjacent to a small area of residential development to the north. In the surrounding square mile, approximately 90% of the area appears to be agricultural (See Maps 2 & 3).
3. To mitigate impacts on nearby agricultural practices, a notification of agricultural operations shall be filed with the final plat and placed on the final plat, and the covenants shall include a provision requiring owners to control domestic pets. (Conditions 1 & 2 – in Living with Wildlife section)
4. There are no Prime Farmland Soils or Farmland of Statewide Importance associated with this property.

Conclusion of Law:

With the mitigating conditions, impacts on agriculture will be minimized.



**Map 2: 2004 Aerial Photograph**  
(Source Data: Ravalli County Planning Department)



**Map 3: Agricultural Activity Based on Tax Records**

(Source Data: MT Dept. of Administration Information Technology Services Division – Geographic Information Services)

**CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES** *(Staff Note: The new configuration of accesses of the subdivision proposal does not affect agriculture; therefore, no changes have been made to Effects on Agricultural Water User Facilities.)*

**Findings of Fact:**

1. According to the application, the property has water rights which are distributed by the Bitterroot Irrigation District (BRID) and the Mountain View Water Users Association. The approximately ten acres currently under irrigation are proposed to be divided among the lots.
2. In recent discussions with DNRC-Water Resources and BRID, it was confirmed that the irrigation water rights are held by BRID, not by the property. Consequently, a master irrigation plan is not required for this subdivision.
3. As a requirement of final plat approval, Section 3-3-4(c)(25) of the Ravalli County Subdivision Regulations requires the approval of the irrigation district when irrigation ditches/pipelines are to be altered.
4. The preliminary plat shows a proposed 10-foot wide irrigation easement along the southern property boundary. An existing irrigation mainline pipe is located within this easement. The preliminary plat also shows a proposed 10-foot wide irrigation easement traversing through Lots B3 and B2, diverging north from the mainline on the southern property boundary.
5. As a requirement of final plat approval, the Ravalli County Subdivision Regulations require that existing irrigation easements/rights-of-way located on the property be shown on the final plat. In order to mitigate impacts on agricultural water user facilities, a notification of these easements shall be included in the Notifications Document. (Condition 1)



#### Conclusion of Law:

With the mitigating conditions and the requirements of final plat approval, impacts to agricultural water user facilities will be minimized.

#### CRITERION 3: EFFECTS ON LOCAL SERVICES

##### Findings of Fact:

1. The pro rata share for substandard County-maintained road(s) that provide access to this subdivision from Eastside Highway shall be paid by the applicant prior to final plat approval, as required by the Subdivision Regulations.
2. The applicant is proposing a common access to Lots B1 and B2, and Lots B3, B4, and B5 are proposed to access off the internal subdivision road, Coyote Creek Drive.
3. The Ravalli County Road and Bridge Department's Access Encroachment Policy, adopted January 27, 2006, states that a parcel or multiple parcels under the same ownership shall have one access onto a County road. (*Exhibit A-7*)
4. At the BCC meeting on March 14, 2006, the BCC stated that they anticipated an increase in traffic on Sutherland Lane due to future development. (*Exhibit C-2*)
5. In an email dated April 26, 2006, David Ohnstad stated that the Road Department's recommendation is to follow the approved Access Encroachment Policy. (*Exhibit A-8*)
6. To reduce accesses onto Sutherland Lane and mitigate impacts to Local Services and Public Health and Safety, the developer shall design an internal road system to access all the lots with one access off Sutherland Lane. (Condition 7)
7. The preliminary plat shows a proposed non-ingress/egress strip located along the Sutherland Lane frontage of the subdivision. To mitigate impacts of the subdivision on the public road system, a non-ingress/egress restriction shall be placed along the Sutherland Lane frontage of the subdivision, excepting the approved approach for the internal road system on the final plat and a notification of this access restriction shall be included in the Notifications Document filed with the final plat. (Conditions 1 & 11)
8. Sutherland Lane is a County-maintained road that provides access to the subdivision. The easement for Sutherland Lane along the subdivision frontage is 50 feet wide. To mitigate impacts on local services, the applicant shall provide for an additional five feet of easement along the Sutherland Lane frontage. (Condition 10)
9. The applicant will be required to get an approved approach permit for the internal road system from the County Road and Bridge Department prior to final plat approval.
10. Coyote Creek Drive is a privately-maintained road that is proposed to serve Lots B3, B4, and B5. The applicant has requested a variance from the requirement to construct Coyote Creek Drive to meet County road standards for a minor local road in the Subdivision Regulations and has instead proposed to build the road to two-lot local standards with the exception of a 20-foot wide gravel travel surface and an easement width of 40 feet. Staff has recommended denial of the variance request. (Variance)
11. A road maintenance agreement for Coyote Creek Drive has been included in the application packet and a road maintenance agreement for all private roads providing access to the subdivision is required to be filed with the final plat. To mitigate impacts on local services and public health and safety, a notification of the road maintenance agreement shall be included in the Notifications Document filed with the final plat. (Condition 1)
12. With denial of the variance request, Coyote Creek Drive is required to be constructed to meet County standards and a grading and drainage plan must be submitted to reflect the improvements and must be approved by the County's Professional Engineering Advisor. If a new preliminary plat and road plans designed so that all lots are accessed by an internal road system with one access off Sutherland Lane are not submitted by the end of the May 3, 2006 public hearing, then the applicant will not be able to alter the proposal or present any other "new information" to the Board of County Commissioners. Submittal of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ, reconstruction of the

- road and storm water drainage facilities in accordance with an approved road and grading and drainage plan, and submittal of a road certification are required prior to final plat approval.
13. Approved road name petitions shall be submitted as a requirement of final plat approval, and road name signs installed for all internal subdivision roads prior to final plat approval.
  14. In order to ensure that the public has access onto the roads within this subdivision, the internal road system shall be dedicated as public road and utility easements on the final plat. (Condition 8)
  15. The Road Department generally requires a stop sign on roads that serve more than one lot. To mitigate impacts on local services, the applicant shall install a stop sign at any intersections created by this proposal prior to final plat approval. (Condition 7)
  16. Individual water and wastewater treatment systems are proposed to serve the lots. To mitigate potential impacts of this subdivision on any possible future public water, public sewer system, or the road system, the RSID/SID waiver filed with the final plat shall address these systems. (Conditions 2 & 3)
  17. Bitterroot Disposal provides disposal service to this area.
  18. The applicant is proposing a contribution of \$100 per lot to the Corvallis School District. The Superintendent provided a letter dated January 12, 2006 which states there are no specific objections to this subdivision. To mitigate impacts of the proposal on the School District, the applicant shall place an encumbrance of \$250 per lot to be paid to the Corvallis School District upon first conveyance, including lease or rent, of each lot on the final plat. (Exhibit A-2 & Condition 4)
  19. The subdivision is located within the Corvallis Rural Fire District. The Corvallis Rural Fire District has provided general comments on subdivision proposals, indicating they have adopted a policy which addresses access, posting of addresses, and water supply requirements. Conditions of approval will meet the recommendations of the Corvallis Rural Fire District. (Exhibit A-3 & Conditions 2 & 5)
  20. The Ravalli County Sheriff's Office provides law enforcement services to this area.
  21. Public Services are adequate for this subdivision.

Conclusion of Law:

With the mitigating conditions, requirements of final plat approval, and denial of the variance request, impacts on local services will be minimized.

**CRITERION 4: EFFECTS ON THE NATURAL ENVIRONMENT** (Staff Note: The new configuration of accesses of the subdivision proposal does not affect the natural environment; therefore, no changes have been made to Effects on the Natural Environment.)

Findings of Fact:

1. Individual wells and wastewater treatment systems are proposed to serve lots within the subdivision and adequate information has been provided to the Environmental Health Department for local subdivision review to occur. A Certificate of Subdivision Plat Approval from Montana DEQ has been provided and is required to be submitted with the final plat. (Application)
2. To mitigate air pollution resulting from home heating emissions, the protective covenants filed with the final plat shall state that the primary heat source for any newly constructed residences must be at least 75% efficient. (Condition 2)
3. The applicant has requested a variance from the County road standards to allow Coyote Creek Drive to be constructed to two-lot local road standards, with a gravel travel surface. Dust generated from gravel roads has a negative impact on air quality. Staff has recommended denial of the request, which will result in the paving of the road. (Variance)
4. A noxious weed and vegetation control plan is required to be filed with the final plat for ground disturbance associated with a subdivision. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for

noxious weed infestation within a weed district, shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, *such as* road construction, the plan shall be submitted to the weed board for approval from the board.

5. To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)

Conclusion of Law:

With the mitigating conditions and the requirements of final plat approval, impacts from this subdivision on the natural environment will be minimized.

**CRITERION 5: EFFECTS ON WILDLIFE AND WILDLIFE HABITAT** *(Staff Note: The new configuration of accesses of the subdivision proposal does not affect wildlife and wildlife habitat; therefore, no changes have been made to Effects on Wildlife and Wildlife Habitat.)*

Findings of Fact:

1. The property is not located within the FWP-identified big game winter range and no species of special concern have been identified in the vicinity of the subdivision.
2. The FWP comment letter recommends including Living with Wildlife provisions in the covenants for this subdivision. (*Exhibit A-1 & Condition 2*)

Conclusion of Law:

With the condition of approval, impacts of the proposed subdivision on wildlife will be mitigated.

**CRITERION 6: EFFECTS ON PUBLIC HEALTH AND SAFETY**

Findings of Fact:

1. The applicant is proposing a common access to Lots B1 and B2, and Lots B3, B4, and B5 are proposed to access off the internal subdivision road, Coyote Creek Drive.
2. The Ravalli County Road and Bridge Department's Access Encroachment Policy, adopted January 27, 2006, states that a parcel or multiple parcels under the same ownership shall have one access onto a County road. (*Exhibit A-7*)
3. At the BCC meeting on March 14, 2006, the BCC stated that they anticipated an increase in traffic on Sutherland Lane due to future development. (*Exhibit C-2*)
4. To reduce accesses onto Sutherland Lane and mitigate impacts to Local Services and Public Health and Safety, the developer shall design an internal road system to access all the lots with one access off Sutherland Lane. (Condition 7)
5. The proposed subdivision is located within the Corvallis Rural Fire District and with Conditions 2 & 5, impacts to the District will have been addressed.
6. Lots will be served by individual wells and wastewater treatment systems. (Natural Environment)
7. To mitigate the general impacts of this subdivision on public health and safety, the subdivider shall apply for County-issued addresses for each lot within this subdivision. A provision shall be included in the protective covenants requiring property owners to post County-issued addresses at their driveways to enhance provision of emergency services. (Conditions 2 & 6)
8. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision requiring full cut-off lighting with the exception of flag poles. (Condition 2)
9. There is a prevalence of radon in the County and to mitigate impacts on public health and safety, the covenants for this property shall include a statement regarding radon exposure. (Condition 2)

Conclusion of Law:

The mitigating conditions and requirements of final plat approval address impacts of this subdivision on public health and safety.

**COMPLIANCE WITH:**

**1) THE SURVEY REQUIREMENTS PROVIDED FOR IN PART 4 OF M.C.A. 76-3.**

Finding of Fact:

The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

This proposal meets the survey requirements or conditions have been required to bring the proposal into compliance.

**2) THE LOCAL SUBDIVISION REGULATIONS PROVIDED FOR IN PART 5 OF M.C.A. 76-3.**

Finding of Fact:

Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

The developer has submitted a plan which complies with the requirements of local subdivision regulations or conditions have been required that will bring the plan into compliance.

**3) THE LOCAL SUBDIVISION REVIEW PROCEDURE PROVIDED FOR IN THE RAVALLI COUNTY SUBDIVISION REGULATIONS**

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in the Ravalli County Subdivision Regulations.
2. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such decision. The petition shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider; a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the unincorporated area of the county that can show a likelihood of material injury to the landowner's property or its value; a first class municipality if the subdivision is within three miles of its limits, a second class municipality if a subdivision is within two miles of its limits, a third class municipality or town if the subdivision is within one mile of its limits. An aggrieved party means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

Conclusion of Law:

This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

**CONSISTENCY WITH EXISTING ZONING AND COVENANTS**

Findings of Fact:

1. The property is not located within a Zoning District.
2. There are existing covenants on the property, included in the application packet. The proposal appears to be consistent with the covenants.

Conclusion of Law:

There is no zoning on this property and the proposal appears to comply with existing covenants.

**PROVISION OF EASEMENTS FOR UTILITIES**

Findings of Fact:

1. The plat indicates utility easements are located along Sutherland Lane and the proposed internal subdivision road, Coyote Creek Drive.
2. According to the application, the proposed subdivision will be served by Ravalli Electric Cooperative and Qwest. Utility availability certificates are a requirement of final plat approval.

Conclusion of Law:

Utility services will be available to this subdivision.

**PROVISION OF LEGAL AND PHYSICAL ACCESS**

Finding of Fact:

Physical and legal access for this subdivision is proposed via Bailey Lane or Popham Lane, Sutherland Lane and the internal subdivision road, Coyote Creek Drive. A variance has been requested for Coyote Creek Drive. (Local Services & Variance)

Conclusion of Law:

With the conditions of approval, action on the variance from road standards, and the requirements of final plat approval, the proposal meets physical and legal access requirements.



## VARIANCE REPORT

### VARIANCE REQUEST

The applicant has requested a variance from Section 5-4-5(b)(2) and Table 5-4-2 of the Ravalli County Subdivision Regulations to allow the proposed internal subdivision road accessing Lots B3 through B5, Coyote Creek Drive, to be built to two-lot local road standards, with the exception of a 20-foot wide gravel travel surface and a 40-foot wide public access and utility easement.

### Compliance with Review Criteria

#### **A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.**

##### Findings of Fact:

1. Section 5-4-5(b)(2) and Table 5-4-2 of the Ravalli County Subdivision Regulations requires Coyote Creek Drive to meet standards for a minor local road due to the number of lots served, including an asphalt-concrete paved surface width of 20 feet within a 60-foot wide public access and utility easement.
2. The applicant is requesting a variance and is proposing to build Coyote Creek Drive to meet two lot local road standards, excepting a gravel travel surface of 20 feet. The applicant is also proposing a 40-foot wide easement.
3. The Board of Health generally commented on road standards by stating: "In a discussion of air quality and roads, the Board of Health unanimously agreed that air quality and road safety are of paramount importance in the development of any road standards." A subsequent letter from members of the Board of Health addresses concerns associated with the impacts of road dust on public health. (*Exhibits A-4 & A-5*)
4. David Ohnstad provided an e-mail comment dated January 25, 2006 which states that the Road and Bridge Department does not support the variance from the roadway improvement requirements of the Subdivision Regulations. (*Exhibit A-6*)

##### Conclusion of Law:

The variance request is opposed by the County Road and Bridge Department, the Board of Health, and the Ravalli County Planning Department. The substandard road will generate road dust, limit access for emergency services, and decrease public safety; therefore, there will be impacts on public health and safety from granting this variance and it could be injurious to adjoining property owners and the general public.

#### **B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.**

##### Finding of Fact:

There is adequate space for a County Standard Road.

##### Conclusion of Law:

The conditions upon which the variance is proposed are not unique to the property.

#### **C. Physical conditions, such as topography or parcel shape, prevents the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).**

##### Finding of Fact:

The property is level and the shape does not limit the applicant from meeting the road standards.

Conclusion of Law:

No physical or topographic limitations would restrict the applicant from meeting the road standards.

**D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.**

Findings of Fact:

1. The property is not within a Zoning District.
2. Relevant countywide provisions in the Ravalli County Growth Policy are outlined below. Provisions of the Ravalli County Growth Policy are followed by an analysis (bulleted points) of the variance request against these provisions.

**Countywide Goal 3:** Protect air quality

**Countywide Policy 3.2:** Minimize dust and other air pollution by appropriate subdivision regulation.

- The subdivision regulations require paving of Coyote Creek Drive.
- The Ravalli County Board of Health has expressed concerns regarding air pollution caused by dust. (See Variance Criterion A and *Exhibits A-4 & A-5*)

**Countywide Goal 4:** Provide necessary infrastructure and public services to accommodate population growth and new development without undue impacts on the quality, quantity and cost of service to existing residents.

**Countywide Policy 4.1:** Encourage development that will minimize or avoid additional costs to existing taxpayers.

- Lots B3, B4 and B5 within this subdivision are proposed to be accessed from Coyote Creek Drive, a privately-maintained road that will be substandard, if the variance is granted.
- The Road Department does not support granting of variances from roadway improvement standards.

**Countywide Policy 4.5:** Developers will be responsible for providing the infrastructure necessary within the development such as community water, sewage treatment and roads. A system of "nexus and proportionality" will govern external infrastructure costs attributable to the developer.

- The applicant has requested a variance from the requirement that the road be constructed to meet the road design standards in the Ravalli County Subdivision Regulations.

Conclusions of Law:

1. The property is not located within a Zoning District.
2. The Growth Policy does not support granting the variance request.

**E. The variance will not cause a substantial increase in public costs.**

Findings of Fact:

1. Coyote Creek Drive is proposed to be a privately-maintained, substandard road.
2. The Road Department and Fire District do not support granting the variance request.

Conclusion of Law:

There may be an increase to public costs, in particular for providing emergency services, by granting this variance.



# EXHIBIT A

## Ravalli County Planning Board Meeting Minutes for February 1, 2006

7:00 p.m.

Commissioners Meeting Room, 215 S. 4<sup>th</sup> Street, Hamilton, Montana

### Public Hearings

Skysong Farm (Grout) Major Subdivision and Three Variance Requests  
Mountain View Orchards Block 12, Lot B, AP (Zech) Minor Subdivision and One Variance Request  
Thomas (Thomas) Minor Subdivision and Three Variance Requests

*This is a summary of the meeting, not a verbatim transcript. An audiotape of the meeting may be purchased from the Planning Department for \$10.00.*

#### 1. Call to order

Dan Huls (called the meeting to order at 7:04 p.m.)

#### 2. Roll Call (See Attachment A, Roll Call Sheet)

##### (A) Members

Ben Hillicoss (present)  
Dan Huls (present)  
Frankie Laible (present)  
Roger Linhart (present)  
Chip Pigman (present)  
Tom Ruffatto (present)  
Les Rutledge (present)  
Lori Schallenberger (not present - excused)  
Garry Shook (not present - excused)  
Gary Zebrowski (present)

##### (B) Staff:

Renee Van Hoven  
Benjamin H. Howell  
Tristan Riddell

#### 3. Approval of Minutes

Dan asked if there were any corrections or additions to the minutes from January 18, 2006. There were none. The minutes were approved.

#### 4. Amendments to the Agenda

There were none.

#### 5. Correspondence

One new letter was submitted regarding the Mountain View Orchards, Block 12, Lot B (Zech) Minor Subdivision (See Attachment B, Neighborhood Permission for Gravel Road).

**Renee** noted that **James McCubbin** could be consulted regarding the bonding issue.

**Chip** amended the motion to be subject to a condition that the applicant work with an attorney to bond future applications of dust abatement on Weber Heights Road.

The vote was called; and the members voted (6-2) to approve the Variance Request (See Attachment F, Skysong Farm Variance Request #3).

(v) Board Deliberation on the Subdivision Proposal

(a) Board Discussion and Questions

(b) Board action

(1) Review of the Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and the findings of fact and conclusions of law in the Staff Report.

(2) Board Decision on the Subdivision Proposal

**Chip** made a motion to approve the Subdivision based on the findings of fact and conclusions of law in the Staff Report, with the recommendation that the County accept the parkland dedication as proposed by the applicant and amending Condition 6 to state that a contribution of \$250 per lot to the Corvallis School District is due upon first conveyance of each Lot.

**Frankie** seconded the motion

The vote was called; and the members voted (8-0) to approve the Subdivision Proposal (See Attachment G, Skysong Farm Subdivision Proposal).

(B) Mountain View Orchards Block 12, Lot B, AP (Zech) Minor Subdivision and One Variance Request

**Dan removed himself from discussion due to conflicting interest. Chip presided over discussion.**

(i) Staff Report on the Subdivision and Variance Request: **Benjamin Howell** gave a Power Point presentation. A memorandum was submitted to the Planning Board members (See Attachment H, Memo regarding Condition 11). He outlined the proposal and stated that Staff recommended denial of the Variance Request and approval of the Mountain View Orchards Block 12, Lot B, AP (Zech) Minor Subdivision based on the findings of fact and conclusions of law in the Staff Report and subject to the conditions of the Staff Report. (See Attachment I, Mountain View Orchards Block 12, Lot B, AP (Zech) Minor Subdivision and One Variance Request Staff Report)

(ii) Three Minute Rule Waiver Requests

There were none.

(iii) Public Comment on the Subdivision Proposal and Variance Request

(a) Persons in Favor

**Leonard Shepherd** stated he had no argument against the recommendations of Staff. Mr. Shepherd requested that the internal road be considered under two lot local road conditions because it will only access two lots.

(b) Persons Opposed

**Dan** discussed the potential effects on agricultural operations because the Huls Dairy surrounds the area. He stated concerns regarding the unknown reaction of new residents to agricultural activities. Also, Sutherland Road to the north has a dangerous driveway and a blind intersection. These are two public safety issues.

(c) Rebuttal

**Leonard** stated that the County Road Department has given consent for road access. He noted that this danger is not unusual for county roads.

(d) Close: Public Comment

(iv) Board Deliberation on the Variance Request (Road Standards for Coyote Creek Drive)

(a) Board Discussion and Questions

**Roger** asked where the road is considered unsafe.

**Dan** pointed out on the map where dangers are on the road. Dan then explained that trucks run up and down the road during harvest season, which also poses a safety hazard.

**Roger** stated that the new access point was not where these aforementioned hazards are located.

**Ben** asked if there is a straightforward solution to the road problems.

**Dan** responded no.

**Les** stated that the road doesn't conform with fire department standards. And asked what the road proposal is.

**Chip** stated to the Board that the road would meet the definition of 2 lot local roads based on the subdivision regulations.

**Frankie** stated concerns regarding the hay land.

**Tom** stated that lots are located next to an existing dairy, so the buyers should be aware.

**Leonard** stated that a notification to future property owners will be filed, and always is filed. He also suggested that a statement on the front of the plat could help.

**Gary** agreed with the inclusion of a notice on the face of plat describing the location of existing agricultural activities.

(b) Board action

(1) Review of the Variance Request against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings of fact or conclusions of law in the Staff Report.

(2) Board Decision on the Variance Request

**Frankie** made a motion to approve the Variance Request based on the finding that the road serves two lots.

**Tom** seconded the motion

**Gary** asked if the road width met the Fire Department's Standards

**Renee** stated that the road does not meet fire department recommendations for road width.

**Ben** explained why road width is important for fire truck access.

**Tom** stated he would make the road 20 feet wide based on concerns brought forth by Ben and Gary.

**Frankie** withdrew her motion.

**Tom** made a motion to approve the Variance Request based on the finding that the road only serves two lots, and with the condition that the road be built to meet County Standards except that a 20 foot wide gravel travel surface within a 30 foot wide easement be allowed.

**Frankie** seconded the motion

The vote was called; and the members voted (8-0) to approve the Variance Request (See Attachment J, Mountain View Orchards Block 12, Lot B, AP Variance Request).

(v) Board Deliberation on the Subdivision Proposal

(a) Board Discussion and Questions

**Ben** expressed concern regarding agriculture being pushed out of the valley.

(b) Board action

(1) Review of the Subdivision Proposal against the Six Criteria

**Les** requested that the Six Criteria be considered (See Attachment K, Six Criteria Form).

(2) Board Decision on the Subdivision Proposal

**Frankie** made a motion to approve the subdivision based on findings of fact and conclusions of law in the Staff Report and subject to the Conditions in the Staff Report, with the addition of Condition 11 that notification to the proximity to agricultural lands be placed on the face of the final plat and that Condition 4 be amended to state that a contribution of \$250 per lot to the Corvallis School District is due upon first conveyance of each lot.

**Roger** seconded the motion

The vote was called; and the members voted (5-2) to approve the Subdivision Proposal (See Attachment L, Mountain View Orchards Block 12, Lot B, AP, Subdivision Proposal).

(C) **Thomas (Thomas) Minor Subdivision and Three Variance Requests**

(i) Staff Report on the Subdivision and Variance Requests: **Renee** gave a Power Point presentation. She outlined the proposal and stated that Staff recommends denial of all three Variance Requests and approval of the Thomas (Thomas) Minor Subdivision based on the findings of fact and conclusions of law in the Staff Report and subject to the conditions of the Staff Report. (See Attachment M, Thomas (Thomas) Minor Subdivision and Three Variance Requests Staff Report)

(ii) Three Minute Rule Waiver Requests

There were none.

(iii) Public Comment on the Subdivision Proposal and Variance Requests

(a) Persons in Favor

**Terry Nelson** stated that there are no issues with staff recommendations. There are three existing residents on the property, so the subdivision will create





Montana  
Wildlife & Parks

EXHIBIT A-1

RECEIVED

JUN 28 2005

Ravalli County Planning Dept.

PC-05-06-1246

Region 2 Office

3201 Spurgin Road

Missoula, MT 59804-3101

Phone 406-542-5500

June 20, 2005

Leonard Shepherd  
Shepherd Survey  
320 Adirondac Ave.  
Hamilton, MT 59840

Dear Mr. Shepherd:

Normally when Montana Fish, Wildlife & Parks reviews subdivisions, we customize our letter and the proposed covenants to the specific location and circumstances of the subdivision. However, we are endeavoring to catch up with a backlog of subdivisions in Ravalli County that we are currently reviewing. Towards that end and based on our review of the location of each of these subdivisions and the preliminary plats, we would like to propose one set of development covenants.

We recommend the enclosed development covenants for each of the following subdivisions represented by you, in order to help homeowners deal with and avoid potential wildlife issues:

1. Hamilton Heights, Lot 7B (Block 3); owner Grenell (minor 2 lots on 13.9 acres); Cow Creek and Hamilton area.

2. Mountain View Orchards, Lot B (Block 12); owner Zech (minor 5 lots on 13.4 acres); Coyote Creek and Corvallis area.

We thank you for providing the opportunity for MFWP to comment on this subdivision. (Please contact Sharon Rose at 542-5540 or [shrose@mt.gov](mailto:shrose@mt.gov) if you wish to receive an electronic version of these comments or covenants.)

Sincerely,

Mack Long  
Regional Supervisor

ML/sr

C: Ravalli County Planning Department, Attn: Karen Hughes, 215 S. 4 St., Ste. F, Hamilton, MT 59840

,

)



*Proposed Development Covenant for:*

1. Hamilton Heights, Lot 7B (Block 3); owner Grenell (minor 2 lots on 13.9 acres); Cow Creek and Hamilton area.
2. Mountain View Orchards, Lot B (Block 12); owner Zeeh (minor 5-lots on 13.4 acres); Coyote Creek and Corvallis area.

*Recommended by Montana Fish, Wildlife & Park; Missoula; June 15, 2005*

**Section \_\_ : Living with Wildlife**

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, black bear, mountain lion, fox, skunk, and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see the Education portion of FWP's web site at [www.fwp.mt.gov](http://www.fwp.mt.gov).

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. Gardens and fruit trees can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because ripe or rotting vegetable material can attract bears and skunks. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
- c. Garbage should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, and other wildlife. It is best not to set garbage cans out until the morning of garbage pickup.
- d. Do not feed wildlife or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide

supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.

- e. Bird feeders attract bears. If used, bird feeders should: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- f. Pets must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- g. Pet food and/or livestock feed should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. When feeding pets or livestock do not leave food out overnight. Consider feeding pets indoors so that wild animals such as bear, skunk or magpie do not learn to associate food with your home.
- h. Barbecue grills should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- j. **Compost piles** can attract skunks and bears. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)
- k. **Apiaries (bee hives)** could attract bears in this area. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)

Corvallis School District #

EXHIBIT A-2

P. O. Box 700 / 1045 Main

Corvallis MT 59828

Phone: (406) 961-4211

Fax: (406) 961-5144

JAN 1 2006  
Ravalli County Planning Dept.  
12-00-01-72

Daniel B. Sybrant  
Superintendent  
961-4211

Sarah Schumacher  
Principal,  
High School  
961-3201

Trevor Laboski  
Asst. Principal  
High School  
961-3201

Tom A. Miller  
Principal,  
Middle School  
961-3007

Janice Stranahan  
Principal,  
Primary School  
961-3261

Virginia Haines  
Special Services Dir.  
961-3201

Russ Hendrickson  
Technology Coord.  
961-3201

Vannesa Bargfrede  
District Clerk  
961-4211

January 12, 2006

Ravalli County Planning Dept.  
215 South 4<sup>th</sup> Street, Suite F  
Hamilton MT 59840

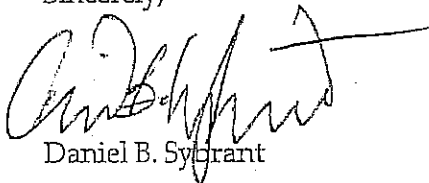
Dear Planning Board,

I have reviewed your letter regarding the Mountain View Orchards, Block 12, Lot B, AP and One Variance Request.

We have no specific objection to this subdivision. As we have stated before, growth in student numbers continues to affect our district infrastructure and bussing system.

In general, we ask that appropriate student safety measures be considered when approving this request.

Sincerely,



Daniel B. Sybrant

dbb/lh



# EXHIBIT A-3

DATE: 8-20-04  
LOCAL: 361

## CORVALLIS RURAL FIRE DISTRICT IMPACT FEES

The Corvallis Rural Fire District has established the following requirements for new proposed subdivisions within the district. The requirements were established with consideration for life, safety of the residents of the district, as well as the Volunteers who are called upon to protect the district, and to mitigate harm to the public health and environment.

When establishing the requirements, emphasis was given to the Uniform Fire Code, Articles 9 and 10, and Appendix III-A, the Ravalli County Subdivision Regulations, the Ravalli County Road Department standards, and the 1993 Fire Protection Guidelines for Wildland Residential Interface Development. These Publications and Articles establish rules for dealing with fire apparatus access roads, fire department access to buildings, water supplies for fire protection, installation and maintenance of fire protection systems, and clearance of brush and vegetative growth from roadways.

Consideration was also given to Section 23.7.105 Administrative Rules of Montana, which is adopted pursuant to authority of 50-3-102 (2) and 50-3-103, MCA, which incorporates by reference the UFC (Uniform Fire Code) and establishes a minimum fire prevention code for Montana.

Every effort has been made to use words and phrases consistent with their definitions in the above mentioned publications.

Development Name: A.P. Lot 1, Blk 9, Sunnyside Orchards #3 (3rd Submittal)

Number of Lots: 3

Developer(s) Name: 7

The Fire Department requires that all roads and bridges meet or exceed, and are maintained to, the requirements of the Uniform Fire Code (UFC) Section 902, which reads in part:

902.2.1 Required Access: Fire apparatus shall be provided in accordance with Sections 901 and 902.2 for every facility, building, or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet (45,720 mm) from fire apparatus access, as measured by an approved route around the exterior of the building or facility...

EXCEPTIONS: When buildings are completely protected with an approved automatic sprinkler system, the provisions of Sections 902.2.1 and 902.2.2 may be modified by the Chief.

902.2.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of no less than 20 feet (6096 mm) and an unobstructed vertical clearance of no less than 13 feet 6 inches (4115 mm).

902.2.2.2 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus, and shall be provided with a surface to provide all-weather driving capabilities.

902.2.2.6 Grade. The gradient for a fire apparatus access road shall not exceed the maximum approved by the Chief. {The Chief accepts the Resolution approved by the Board of County Commissioners of Ravalli County. The Resolution sets the maximum acceptable road grade by the County for dedication and maintenance at six percent (6%).}

While not all parts of the UFC Section 902 are listed above, it is the responsibility of the Subdivision Developer to construct and maintain all fire apparatus access roads to comply with all aspects of the UFC and Ravalli County Standards.

#### SPECIFIC REQUIREMENTS:

The Fire District requires that all lots (premises) meet the requirements of UFC 901.4.4 as soon as construction begins with a temporary or permanent address posted at the premises driveway and upon occupancy with a permanent address posted in accordance with the above UFC. It appears that the access to all lots will be adequate if built as submitted.

#### WATER SUPPLY REQUIREMENTS:

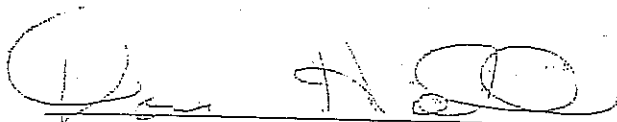
The water supply required by the Uniform Fire Code for one or two family dwellings, not exceeding 3600 square feet, requires a flow rate of 1000 g.p.m. The code does not specify the duration of flow for one and two family dwellings; however, the Fire Protection Guidelines for Wildland Residential Interface Development and the Ravalli County Subdivision Regulations list the minimum water supply of 2500 gallons per lot.

The Corvallis Rural Fire District currently has an ISO Class 5 Residential rating which requires a water flow of 200 gallons per minute for a duration of 20 minutes, or a total flow of 4000 gallons per residence.

Considering the above information, the Fire District will accept a water supply of 1000 gallons per minute or 2500 gallons per lot of stored water. The water supply installation, upkeep and maintenance will be the responsibility of the Subdivision.

The Fire District realizes the financial burden of installing and maintaining a water supply and/or storage tanks capable of providing the required water flows, and is willing to accept a payment of \$500.00 (Five Hundred Dollars) per lot, in lieu of the water supply required by the UFC. The payment per lot must be paid upon approval of the Subdivision. The Fire District will then, upon its elective, purchase fire fighting apparatus or develop water supplies.

**EXCEPTIONS:** When buildings are completely protected with an automatic sprinkler system approved by the Chief, the above listed water supply may be reduced by 50%. The Subdivision Covenants must state that "All residences constructed within the Subdivision be completely protected with an approved automatic sprinkler system." The Fire District will provide a \$250.00 reimbursement to those residences with an approved automatic sprinkler system.



Chairperson

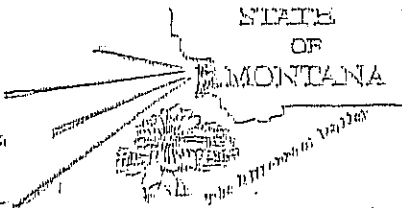
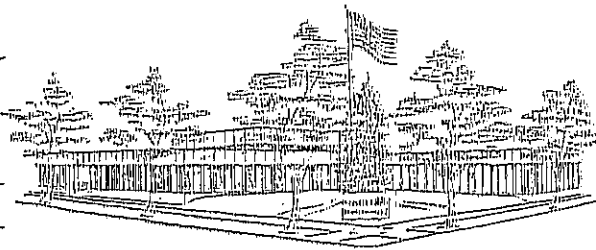
Date





# E. HIBIT A-4

COUNTY  
OF  
RAVALLI



Hamilton, Montana 59840

EL-04-06-776

Ravalli Co. Planning Office

RAVALLI COUNTY BOARD OF HEALTH  
215 S. 4<sup>th</sup> Street, Suite A  
Hamilton, MT. 59840

JUN 2 2004

RECEIVED

June 23, 2004

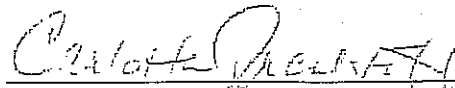
Road Standards Committee  
C/O Ravalli County Planning Department


RE: Board of Health's Concerns for Road Standards

The Board of Health met in regular session on this date of June 23, 2004. In a discussion of air quality and roads, the Board of Health unanimously agreed that air quality and road safety are of paramount concern in the development of any road standards.

For the Board of Health:

  
Roger DeHaan, Member

  
Carlotta Grandstaff, Member

  
Commissioner Greg Chilcotti, Chairman

## E. HIBIT A-5

Memo to: Ravalli County Commissioners  
From: Ravalli County Health Board  
Re: Proposed new County road regulations  
Date: April 4, 2005

Various research studies show a strong link between air borne dust particulates and human health problems, including emphysema, asthma and others. For further details, please see the article (and 72 referenced articles) from the American Academy of Pediatrics, 2004, "Ambient Air Pollution: Health Hazards to Children."

In Ravalli County, even though there is limited air monitoring we are able to do, it is clear that sometimes we have excessive particulate matter (mainly road dust) in our air. Additionally, citizens often complain to County and State agencies about specific road dust problems in certain areas.

Because of this, the Health Board strongly urges the Commissioners to include mandatory dust control measures in any road regulations for the County.

All new roads, including those in subdivisions, should be paved, or treated with dust suppressant such as magnesium chloride, at the time of construction. If the magnesium chloride option is chosen, which requires reapplication every other year, owners must provide sufficient bonding or financial guarantee to insure that the work will be done for an extended period such as 20 or 30 years.

For existing roads owned by the County, we recommend that the very first budget priority be to apply dust palliative on all roads. This means that ALL County roads should have a graded magnesium chloride surface before any road is given additional budget allocation for widening, paving etc.

We believe that these measures, if implemented, will significantly help the health condition of all citizens of Ravalli County.

Thank you for considering and including these provisions in the new road regulations.

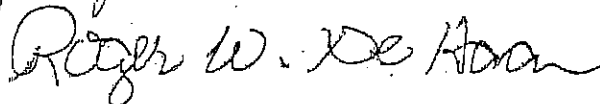
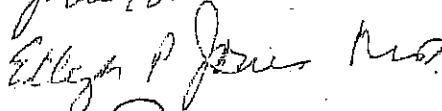
Respectfully submitted by the Ravalli County Health Board:

Mr. Greg Chilcott, Ravalli County Commissioner

Dr. John Swanson, M.D.

Dr. Ellyn Jones, M.D.

Mr. Roger W. De Haan, P.E.



## EXHIBIT A-6

Ben Howell

---

From: David Ohnstad  
Sent: Wednesday, January 25, 2006 2:09 PM  
To: Ben Howell  
Subject: mountain view orchards

Ben -

Regarding the Request for Agency Comment on Mountain View Orchards Block 12, Lot B, AP (01/10/06);  
Variance Request - the Road & Bridge Department **does not support** variance from the road improvement  
requirements of the subdivision regulations.

David

*David H. Ohnstad  
County Road Supervisor  
Ravalli County, Montana  
(406) 363 - 2733*



# EXHIBIT A-7

RAVALLI COUNTY ROAD & BRIDGE DEPARTMENT  
244 FAIRGROUNDS ROAD  
HAMILTON, MONTANA 59840  
(406) 363 - 2733

NEWS RELEASE - FOR IMMEDIATE RELEASE

FRIDAY, FEBRUARY 03, 2006

## RAVALLI COUNTY ADOPTS NEW POLICY FOR ACCESS ENCROACHMENT

On Thursday, January 26<sup>th</sup>, the Board of County Commissioners adopted a revised policy on the management of access onto Ravalli County roadways. Through the provisions of this policy, the Road & Bridge Department will administer the standards necessary to protect public safety, maintain reasonable levels of traffic movement, maintain roadway drainage and preserve the functional integrity of the roadway system while addressing private access interests. The policy identifies the procedure to obtain permits, design and construction standards, approval criteria and the responsibility of access owners.

Vehicular access onto a county roadway from an adjoining property shall be achieved **only through a designed, constructed and approved access**. Property owners, excavation contractors, developers and design professionals are encouraged to obtain copy of the policy, available at the Ravalli County Road & Bridge Department at 244 Fairgrounds Road in Hamilton, or by contacting the department at **(406) 363 - 2733**.

# # #

# RAVALLI COUNTY ROAD & BRIDGE DEPARTMENT

## ~ POLICY ~

### ACCESS ENCROACHMENT

To facilitate the beneficial public use of Ravalli County roadway rights-of-way, consistent with Montana State Law, the Board of County Commissioners has adopted this policy for the management of private access encroachments within those county roadway rights-of-way. The intent of this policy is to provide for the construction and improvement of these accesses in accordance with the design standards, specifications and procedures adopted by the county; to protect the health and safety of the public; to provide for public safety and the preservation of roadway investments; and to minimize conflicts between public roadways and private approaches. Through the provisions of this policy, the Road & Bridge Department will administer the standards necessary to protect public health and safety, maintain a reasonable level of traffic flow, maintain roadway drainage and preserve functional levels of service for public roadways while meeting regional, local and private transportation demands and interests.

## SECTION I INTRODUCTION

### A) AUTHORITY

Pursuant to the resolution of the Board of County Commissioners and applicable Montana State Law, specifically 7-14-2101 and 7-14-2102 MCA, the Road & Bridge Department shall regulate, permit and manage vehicular access to and from a county roadway, from or to any property adjoining the county roadway.

### B) IMPLEMENTATION

Upon the effective date of this policy no person shall construct, reconstruct, improve or expand any access providing direct movement to or from any roadway operated by the Ravalli County Road & Bridge Department (RCRBD) without possession of a permit approved and issued by the RCRBD. Any permit issued shall constitute an obligation by the OWNER to perform all work in compliance with the terms of the permit and associated design and construction standards.

Access permits shall be issued only in accordance with this policy. No verbal or other informal approval shall be considered valid. In no event shall an access be allowed or permitted if it is determined to compromise public health or safety.

**Vehicular access to or from any property** adjoining a Ravalli County roadway shall be achieved only through **a designed, constructed and approved access.**

## **SECTION II ADMINISTRATION**

### **A) OBTAINING A PERMIT**

Persons wishing to apply for direct access to a county roadway shall contact the RCRBD, which may require any of the following items, when necessary, for the evaluation of an access: A) roadway and access approach plan and profile, B) complete drainage plan of the site showing impact to the roadway right-of-way, C) site map detailing utility locations before and after development in and along the roadway, D) a subdivision development plan, E) a property map identifying any other access or abutting public roadways, and F) a proposed access design.

In applying for and accepting the issuance of a permit, the OWNER shall certify that they have read and agree to all of the terms and conditions of this policy.

Upon receipt of a permit application, the RCRBD will employ this policy in the review of the application and will work cooperatively with the OWNER to attempt to resolve any issue prior to taking final action. The responsibility of meeting the provisions of this policy, however, is entirely that of the OWNER. A permit application shall conform to all sections of this policy. The RCRBD will typically act upon an application within two (2) weeks by transmittal of an approved permit, the issuance of a preliminary or construction permit, or denial of the application. Before denying an application, the RCRBD will discuss the issue with the OWNER and will attempt to resolve the reasons for the decision.

### **B) PERFORMANCE GUARANTEE**

The OWNER may be required to post a performance guarantee, in the amount estimated to complete the construction of the approach and in the form of a cash deposit or surety, at the discretion of the COUNTY. The decision to require a guarantee will be based upon criteria that may include the past performance of the OWNER in complying with the terms and conditions of previous permits and complications with the construction of previous installations by the OWNER.

### **C) PRELIMINARY APPROACH PERMITS**

The OWNER may apply for a Preliminary Approach Permit to determine an acceptable location for access onto a county roadway. The RCRBD will review the proposal and may grant conceptual approval. The RCRBD is not responsible for determining the location or design of access onto county roadways. The OWNER shall be responsible for clearly demonstrating that the approach would be consistent with adopted design standards. The OWNER is encouraged to obtain the assistance of a licensed civil engineer. An Access Encroachment Permit fee is payable at the time of application. The RCRBD may forward proposals to the county's consulting engineer for further review. The OWNER shall be responsible for the total cost of review. Upon approval, the exact location and design of the access shall be identified on all subsequent plan submittals.

A preliminary approach permit may remain valid for up to twenty-four (24) months and may be converted to a standard permit, at a reduced rate, upon final plat approval, provided that no change to design or location has occurred.

#### **D) CONSTRUCTION OF ACCESS**

The approach permit shall be deemed expired and void if the construction of the access has not been completed before the expiration date identified on the permit. When the OWNER is unable to complete construction within that schedule, they may request an extension from the RCRBD. Any request for an extension must be submitted to the RCRBD before the permit expiration date.

The anticipated dates of construction shall be included in the application. The OWNER shall notify the RCRBD at least forty-eight (48) hours prior to any activity within the public roadway right-of-way. The access shall be completed in a timely and safe manner, within the time schedule identified on the permit.

The RCRBD will perform inspection of the construction process, and of the completed access, to ensure that all permit terms and conditions are achieved.

The construction of the access and its appurtenances as required by the terms and conditions of the permit shall be completed at the expense of the OWNER.

The RCRBD may order a halt to any unauthorized access construction or use.

A copy of the approved permit shall be available for on-site review at all times.

The RCRBD may order minor amendments to address site-specific conditions.

#### **FINAL INSPECTION**

The OWNER shall request of the COUNTY a final inspection of the installation immediately upon completion of construction. The OWNER agrees to perform, at the OWNER's expense, any correction or modification determined necessary by the COUNTY. Failure to complete construction and request final inspection within one year of the date of application shall be considered abandonment of the access and shall result in termination of the permit. The OWNER shall be, and shall remain, responsible for any expense incurred by the COUNTY to remove the access and to restore the roadway easement to its original condition.

#### **TRAFFIC CONTROL**

Adequate construction signing, in conformance with the Manual on Uniform Traffic Control Devices, is required at all times during construction. This may include, but is not limited to, the use of signs, barricades and flaggers. The RCRBD and its employees shall be held harmless against any action for personal injury or property damage sustained through the exercise of an access permit.



### LOCATION OF UTILITIES

The OWNER shall be responsible for identifying the location of existing utility installations by contacting the Utility Notification Center prior to construction.

### INSURANCE AND LICENSE

The OWNER shall provide a current Certificate of Public Liability Insurance in the amount of \$1,000,000.00, naming RAVALLI COUNTY as insured; or shall employ an excavation contractor licensed by the State of Montana and possessing such insurance coverage to perform any work within the county roadway right-of-way.

### **E) USE OF ACCESS**

It is the responsibility of the OWNER to ensure that the use of the access is not, and does not become, in violation of terms and conditions of this policy or the conditions identified in the approved permit. The terms and conditions of the permit are binding upon all owners, assigns, successors-in-interest and heirs.

When any change occurs in the use of the property that results in changes in the use or operation of any access onto a county roadway and the access no longer conforms to this policy or the conditions identified in the approved permit, the reconstruction or relocation of the access will be required. The OWNER shall be responsible for all costs associated with reconstruction or other modification of the access and shall apply for required permits, in advance of those activities.

When, in the course of roadway activity performed by the RCRBD, it becomes necessary to reconstruct, relocate or otherwise amend an existing and approved access, the RCRBD will initiate appropriate contact, procedure and agreement.

### **F) EXISTING ACCESSES**

An access to a county roadway that was appropriately established prior to the adoption of this policy may remain as if permitted under this policy provided that 1) the access is operated and maintained in conformance to this policy, 2) the access provides service only to the adjacent property(s) and in the **same function and capacity** as may exist at the time of the adoption of this policy, and 3) the access does not compromise the safety of roadway users. It is the intent, and shall be the practice, to apply the provisions of this policy to new accesses onto county roadways and to existing accesses only as defined herein.

When any change occurs in the use of the property that results in changes in the use or operation of any access onto a county roadway and the access no longer conforms with this policy or the conditions identified in the approved permit, the reconstruction or relocation of the access will be required. The OWNER shall be responsible for all costs associated with reconstruction or other modification of the access and shall apply for required permits, in advance of those activities.

### **G) ILLEGAL ENCROACHMENT**

Pursuant to Montana State Law, specifically 7-14-2134 through 7-14-2137 MCA, the RCRBD shall remove or cause the removal of any highway encroachment not specifically permitted under the provisions of this policy. The OWNER shall be sent a written notice of any illegal encroachment, access location or use and a ten (10) day notification of any pending action, after which the RCRBD may install barriers across or remove any access not conforming to this policy. In the event the encroachment presents an immediate hazard to roadway users, the COUNTY may remove the encroachment without notification. The OWNER shall be responsible for any expense incurred by the COUNTY in such removal.

### **H) CONFORMANCE OF SUBDIVISIONS**

Upon the effective date of this policy, no person(s) may submit an application for the subdivision of property abutting a county roadway unless the subdivision development plan provides that all parcels created by the subdivision will have access to the roadway system in conformance with this policy and the Ravalli County Subdivision Regulations. Direct access from the subdivision to the county roadway system shall be permitted only if the access approach meets the requirements of this policy. Dependant upon the functional classification of the roadway, direct access from subdivision parcels to a county roadway may not be permitted. Newly created subdivision parcels may be required to access only onto internal subdivision streets and not directly onto a county roadway.

### **I) PERMIT FEES**

The Ravalli County Board of County Commissioners has approved a schedule of fees for permits issued pursuant to this policy. At the time of adoption of this policy, the fee for Access Encroachment permits is \$100.00 for each installation.

Additional fees may be assessed for review by the county's consulting engineer.

### **J) OWNER RESPONSIBILITY**

The OWNER, their successors-in-interest or assigns of the property served by the access shall be responsible for continuously meeting the terms and conditions of the permit. The OWNER shall alone be responsible for maintaining the access in a responsible, safe and operational condition, as determined by the COUNTY.

An access permit shall be considered in full force and effect from the time of approval until the permit is terminated by the COUNTY or abandoned by the OWNER. The COUNTY may terminate a permit should the OWNER fail to continuously conform to the terms and conditions of the permit. In the event of termination or abandonment, the OWNER shall be responsible for the removal of the access and for restoring the roadway easement to its original condition.

Should the OWNER fail to effectively remove the access and restore the easement, the COUNTY may cause the work to be performed. The OWNER shall alone be responsible for all expenses incurred by the COUNTY for such action and for any damage to the roadway resulting from any action or inaction by the OWNER.

The OWNER shall be responsible for the removal of snow from the approach even when deposited onto the access in the course of county roadway snow removal.

***SNOW SHALL NOT BE DEPOSITED ONTO OR ACROSS A COUNTY ROADWAY.***

In accepting a permit, the OWNER, their successors or assigns, agrees to hold the COUNTY harmless in any claim or action arising from the performance of any work, material, installation, maintenance or operation of the access, or from the occupancy of the public easement. The OWNER additionally agrees, in the event of suit resulting from such, shall defend the same at their expense.

### **SECTION III ACCESS CONTROL STANDARDS**

To provide for the effective management and functional integrity of the county roadway system, to maintain desirable traffic flow and reduce potential conflict, and to enhance the safety of roadway users while providing for reasonable access to county roadways from adjacent property, the following guidelines establish levels of access control applied to Ravalli County roadways, based upon the functional classification assigned to a roadway or a roadway segment.

These are considered to be minimum guidelines. Consideration may be given to access locations where existing topography, property limits and roadway design considerations may limit strict compliance with these standards. The access should serve as many parcels as possible to reduce the demand for additional public roadways and for additional direct access to county roadways.

The separation of accesses is measured from the centerline of the approach.

#### **A) MAJOR COLLECTOR ROADWAY**

##### **PRIVATE DIRECT ACCESS**

No more than one access shall be permitted or provided to an individual parcel, or contiguous parcels under the same ownership, unless it is demonstrated that 1) the additional access would not compromise the safety of county roadway users or the operation of the county roadway, 2) allowing only one access for the parcel would conflict with established local safety regulations, and 3) that the additional access would not be detrimental to the public health and safety.

##### **SEPARATION OF ACCESSES**

All private accesses, intersecting public roadways and other direct access to major collector county roadways shall be separated by a minimum of **600** feet.

Where high traffic volumes exist on the county roadway, or substantial increases in traffic are anticipated, accesses should be separated by a minimum of 900 feet.

## **B) MINOR COLLECTOR ROADWAYS**

### **PRIVATE DIRECT ACCESS**

No more than one access shall be permitted or provided to an individual parcel, or contiguous parcels under the same ownership, unless it is demonstrated that 1) the additional access would not compromise the safety of county roadway users or the operation of the county roadway, 2) allowing only one access for the parcel would conflict with established local safety regulations, and 3) that the additional access would not be detrimental to the public health and safety.

### **SEPARATION OF ACCESSSES**

All private accesses, intersecting public roadways and other direct access to minor collector county roadways shall be separated by a minimum of **300** feet.

## **C) LOCAL ACCESS ROADWAYS**

### **PRIVATE DIRECT ACCESS**

One direct access to a county roadway will be permitted or provided to each individual parcel, or to contiguous parcels under the same ownership, when it is demonstrated that the access will not create safety or operational concerns and the separation of the accesses is consistent with the requirements of this policy.

### **SEPARATION OF ACCESSSES**

All private accesses, intersecting public roadways and other direct access to any local access county roadway shall be separated by a minimum of **150** feet.

## **SECTION IV DESIGN STANDARDS & SPECIFICATIONS**

All private access onto Ravalli County roadways shall be designed and located in conformance with the standards established in this policy. The design of all accesses shall be consistent with the adopted roadway design standards. The OWNER shall alone be responsible for ensuring compliance with these standards.

Ravalli County has adopted AASHTO standards for the design of roadways. All work performed and all materials installed within Ravalli County rights-of-way shall conform to the **MONTANA PUBLIC WORKS STANDARD SPECIFICATIONS**.

Any access that is not constructed in conformance with these standards **will not be approved**. The OWNER shall be alone responsible for ensuring that all installations are designed and constructed in conformance with these standards.

## **A) WIDTH OF ACCESS**

The width equals the full span of the access excluding the approach radius.

- Single Family Residential - minimum of 16 feet to maximum of 20 feet.
- Multi-Family Residential - minimum of 18 feet to maximum of 22 feet.
- Commercial / Industrial - minimum of 28 feet to maximum of 32 feet.

When a subdivision access, or another public roadway, intersects with a county roadway, the access width shall be determined through the AASHTO standards.

Refer to the drainage chapter of this policy for approach culvert requirements.

## **B) ALIGNMENT**

All approaches shall intersect the county roadway at a ninety (90) degree angle.

In the event existing topography or other legitimate physical conditions may preclude a ninety degree intersection, the OWNER may, through a licensed civil engineer, apply for an exception to this standard. The engineer shall provide a signed and stamped design of the access for review by the COUNTY. In no instance shall an approach intersect the county roadway at less than sixty (60) degrees. The OWNER shall alone be responsible for all costs relating to the review of the proposed design, including those of the county's consulting engineer.

## **C) APPROACH RADIUS**

At the intersection with a county roadway, all residential approaches shall have an equivalent radius of 15 feet minimum to 25 feet maximum. All approaches intended for commercial or industrial use, or that may routinely serve over-size vehicles, shall have an equivalent radius of 35 feet minimum to 45 feet maximum.

The limit of the radius shall be at least five feet from the adjoining property line.

## **D) SURFACING**

All access approaches onto paved county roadways shall be surfaced with a commercial hot-plant asphalt concrete pavement, consistent with the adopted roadway design and construction standards. Typically, a two (2) inch asphalt pavement over a four (4) inch crushed, graded and compacted aggregate base would be considered appropriate for the section within the county right-of-way.

All approaches onto gravel roadways shall be surfaced with a crushed aggregate material, graded, shaped and compacted to match the county roadway surface.

Private approaches shall be constructed in conformance to these standards from the edge of the intersected roadway to the outer limit of the roadway easement.

Materials shall be placed and compacted consistent with approved standards. Subdivision or other public roadway access shall be designed and constructed in accordance with adopted design standards and the Subdivision Regulations.

#### **E) MAIL DELIVERY TURN-OUTS**

All mail receptacles shall be installed, in accordance with AASHTO and USPS standards, in a location that facilitates delivery without compromising the safe and efficient movement of traffic on the county roadway. When a turn-out is required, it shall be constructed in accordance with approved design standards.

#### **F) SPEED CHANGE LANES**

Speed change lanes (auxiliary lanes) may be required to provide for the safe exit and entry of vehicles using an access and to provide for safe and efficient travel upon, and operation of, the county roadway. The demand for additional lanes is typically identified through a **TRAFFIC IMPACT STATEMENT** performed as a condition of a subdivision or another significant development. The conduct of an impact statement shall be consistent with adopted roadway design standards, the criteria established by the INSTITUTE OF TRAFFIC ENGINEERS and the Ravalli County Subdivision Regulations. When an impact study is required, the OWNER shall provide, through a licensed civil engineer, a comprehensive study and subsequent design proposal for review by the COUNTY. The OWNER shall alone be responsible for all costs associated with this review process and the construction of any roadway improvements recommended through the study.

#### **G) SIGHT DISTANCE**

Permits shall not be issued for any approach that allows any turning movement where the sight distance is not sufficient to provide for the safe and efficient movement of traffic exiting from or entering a county roadway, or encountering the access while upon the county roadway. The OWNER shall be responsible for clearly demonstrating that the approach conforms to the following criteria.

#### **RESIDENTIAL ACCESS**

The **STOPPING SIGHT DISTANCE** as determined through AASHTO design standards and as summarized below, shall be used to identify the appropriate distance. Where a proposed approach does not **clearly meet this standard**, the OWNER shall alone be responsible for 1) identifying an alternative location for review by the COUNTY, or 2) through a licensed civil engineer, designing and proposing the effective mitigation of a substandard location. That proposal shall be reviewed by the COUNTY and may be reviewed by the county's consulting engineer. The OWNER shall be responsible for all costs associated with this review process. The COUNTY has no obligation to approve an approach location. The OWNER is responsible for conformance with this policy.

The schedules below identify minimum values. At the discretion of the RCRBD, an approach with site-specific sight distance concerns or questions may be reviewed by the county's consulting engineer, at the OWNERS expense. The project OWNER may benefit from having a licensed engineer provide a design.

#### LOCAL ACCESS LOW-VOLUME ROADWAY

POSTED SPEED (MPH)	35	45	55
REQUIRED SIGHT DISTANCE (IN FEET)	250	350	470

#### LOCAL ACCESS ROADWAY / MINOR COLLECTOR ROADWAY

POSTED SPEED (MPH)	35	45	55
REQUIRED SIGHT DISTANCE (IN FEET)	305	425	570

#### MAJOR COLLECTOR ROADWAY

POSTED SPEED (MPH)	35	45	55
REQUIRED SIGHT DISTANCE (IN FEET)	360	495	645

For roadways with a posted speed limit other than those above, the next highest category shall be used to determine the appropriate sight distance requirement.

For calculating this sight distance, the height of the driver's eye level shall be 3.5 feet from the surface level and the object height shall be 2.0 feet. The driver's eye shall be assumed to be from the centerline of the inside lane of the approach.

#### COMMERCIAL / INDUSTRIAL ACCESS

For commercial and industrial approaches, the sight distance requirements shall be designed through application of AASHTO standards. The appropriate sight distance is dependent upon several criteria including 1) the posted speed limit and design speed of the county roadway, 2) the design vehicle anticipated to use the approach, and 3) the width and turning radius of the access approach.

Access to agricultural concerns or any other land use where over-size vehicles may enter the county roadway shall be considered in this classification. The OWNER shall, through a licensed civil engineer, provide an approach design consistent with adopted roadway design standards, for review by the COUNTY.

The OWNER shall be alone responsible for all costs associated with this review process including the cost of a review by the county's consulting civil engineer.

The design vehicle shall be the largest vehicle anticipated to use the access.

### **SUBDIVISION ACCESS**

The access roadways for any development processed through the Ravalli County Subdivision Regulations shall be designed as a part of the development project.

This design shall include a review of the existing sight distance at the county roadway and any improvements necessary to meet the criteria of the adopted roadway design standards. The COUNTY may review and grant conditional approval of a proposed access; however, the approach design shall be included in the preliminary and final designs of the subdivision project and shall be constructed prior to the commencement of any subdivision construction activity.

A temporary, or construction, access may be approved for the project, provided that all appropriate drainage, roadway preservation, erosion and traffic control measures are installed and maintained throughout the construction process.

### **H) DRAINAGE**

County roadway drainage systems are designed exclusively for the management of storm-water related to the operation of the roadway and are neither designed nor intended to accommodate storm-water from adjacent property. No access roadway or any other construction on adjacent property shall discharge storm-water, beyond natural, undeveloped levels, into or upon the roadway easement.

The OWNER shall clearly demonstrate that water from adjacent property will be effectively controlled outside of the roadway easement. The **discharge of water** into or upon a public roadway easement **is a violation of Montana State Law**.

Drainage structures and storm-water management systems for adjacent property shall not compromise the drainage systems of the county roadway and shall be designed and constructed consistent with storm-water management standards.

### **APPROACH CULVERTS**

All approaches to a county roadway shall be constructed with a drainage pipe, or culvert, unless the RCRBD determines that such installation is not required.

Approach culverts shall have a minimum fifteen (15) equivalent inch diameter and shall be installed in a manner that facilitates the existing drainage system.



All approach culverts shall be installed with a tapered end section with a taper of not less than 33 degrees, with the in-slopes of the approach graded to match.

All approach culverts shall be of a type specifically designed for roadway construction purposes. Materials that would typically be approved for installation within the county roadway easement include 1) reinforced concrete pipe, 2) corrugated steel pipe, and 3) corrugated (lined) high-density plastic pipe.

All approach culverts shall have a minimum cover of one (1) foot in depth, or to the depth **recommended by the culvert manufacturer**, which ever is greater.

All culverts shall be designed and installed to accommodate the existing storm-water capacity of the roadside drainage facility. The OWNER shall be alone responsible for the design and installation of drainage culverts and shall be responsible for any and all damage to the county roadway system arising from an improperly designed or constructed structure, or any other detrimental action.

## **I) MANAGEMENT OF EASEMENTS**

The RCRBD will manage and operate the roadway drainage system within the roadway easement; however, the OWNER is alone responsible for the repair and replacement of an approach that becomes under disrepair, provided that no action of the RCRBD is directly responsible for that condition. Should the roadway be reconstructed or other improvements become necessary, to the extent that the roadside drainage capacity is affected, the RCRBD will provide for replacement of existing drainage structures. Upon completion of that action, the OWNER shall again be responsible for that installation, in conformance with this policy.

Nothing shall be placed within the roadside drainage areas which would restrict or otherwise compromise the transfer of storm-water. No landscaping shall be permitted within the roadway easement, other than low-growth native grasses.

### **FIXED OBSTACLES PROHIBITED**

Concrete or rock headwalls, abutments, or any other structure representing a fixed obstacle encroachment is prohibited within the county roadway easement.

### **GATES**

An access that has a gate across it shall be designed so that the longest vehicle using the access can completely clear the traveled way when the gate is closed.

Gates or other fixed obstacles are not permitted within the roadway easement.

The **MANAGEMENT OF ROADWAY EASEMENTS** policy, adopted by the Board of County Commissioners in December 2005, provides additional information on the regulation, management and operation of county roadway rights-of-way.

## **J) ADDITIONAL DESIGN ELEMENTS**

### **APPROACH GRADES**

Within the roadway easement, the access shall be graded to slope away from the edge of the county roadway, a slope not less than 2% and not greater than 4%.

Outside the easement, the access shall be constructed at a grade that achieves appropriate drainage and that allows for safe approach to the county roadway.

The grade of a subdivision access shall conform to the Subdivision Regulations.

### **SLOPES**

All fill slopes and cut slopes shall be constructed consistent with the adopted roadway design standards. All slopes within the roadway easement shall be at least 3 feet (H) to one foot (V) (3:1) with 4:1 or flatter slopes whenever possible.

The approach slope shall be graded to blend with the existing roadway slope.

All disturbed slopes and other exposed soils shall be stabilized with desirable vegetative ground cover. Temporary erosion control measures may be required to be maintained until permanent ground cover has been effectively established.

## **J) APPLICATION OF STANDARDS**

The judgment of the RCRBD shall be the determining basis of decisions for approval or denial of requests for access to county roadways. The RCRBD will work with the OWNER to identify and resolve site-specific issues relative to the design of an access. In the event of significant deviation from adopted standards, the OWNER may be required to request an exception to the standards, through a licensed civil engineer. The RCRBD may forward the request to the county's consulting engineer for further review and opinion. The OWNER shall be responsible for all costs associated with this review process.

## **SECTION V APPEALS**

The OWNER may appeal an RCRBD action or decision directly to the Board of County Commissioners. Any appeal **shall be in writing** and shall state 1) the specific action or decision being appealed, 2) the reasons why the action or decision is being contested, and 3) the specific article of this policy that is being appealed. All appeals shall be made within thirty (30) days of the RCRBD action.

# EXHIBIT A-8

**Ben Howell**

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**From:** David Ohnstad  
**Sent:** Wednesday, April 26, 2006 11:41 AM  
**To:** Ben Howell  
**Subject:** RE: Zech Subdivision

I do not know when the subdivision was first proposed. It is the recommendation of the Road & Bridge Department to be consistent with the approved Access Encroachment policy, which would provide for one access for contiguous parcels under common ownership. However, it was my understanding, through conversation with Mr. Zech, that the B.O.C.C. had suggested to him a common access between lots 1 and 2 in addition to the common access for the remaining lots.

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**From:** Ben Howell  
**Sent:** Wednesday, April 26, 2006 11:27 AM  
**To:** David Ohnstad  
**Subject:** Zech Subdivision

David, I'm just making sure that I have everything correct and in writing based on our conversation. The Road Department's recommendation is to follow the Access Encroachment Policy, and have just one access. However, your understanding is that this subdivision came in before the Policy was adopted, and you were told by the applicant that the BCC suggested one common access for Lots B1 and B2, and the internal subdivision road to access Lots B3, B4, and B5. Thus, the Road Department approved an approach permit for the common access between Lots B1 and B2 based on the information you were given. Is this correct? Thanks again for all your help.

*Benjamin H. Howell*  
*Planner I*  
*Ravalli County Planning Department*  
*215 S. 4th Street, Suite F*  
*Phone (406) 375-6530*  
*Fax (406) 375-6531*  
*bhowell@ravallicounty.mt.gov*  
*\*\*Please note the Planning Department's new Phone & Fax numbers\*\**

## EXHIBIT B-1

RECEIVED

JAN 26 2006  
1C-06-01-135  
Ravalli County Planning Dept.

I'm writing this letter in response to the letter I received from the County regarding plot # 542883, proposed subdivision.

I know there is a lot of money to be made in real estate, but the County needs a game plan. Ten to fifteen years ago the drive to Missoula from Hamilton was a pretty scenic drive. Now this drive is a "Hodge Podge" of businesses, and gravel pits.

This property in question has been bought by a realtor to make money, not to live in this area and to be a part of this community. This area is farmland fed by the "Big Ditch" water supply; a limited water source. My property is a good example of this limited water source and affects of subdivisions in this area. My back parcel grows weeds that the State of Montana and myself are trying to eradicate. My property was subdivided and the seller kept the "Big Ditch" water

rights. I'm limited to irrigating my land with the water from Coyote Gulch and have had to install pumps to irrigate the back parcels, so I can grow something other than the weeds. The land is very dry and the Big Ditch water source is vital for agriculture

The County needs a game plan for developing. It needs to look beyond the money and at the affects of subdivisions on the natural resources, the scenic views, and the overall economic impact long term. It was my understanding that this neighborhood was to have 10 acre minimums per subdivision and trailers were prohibited. What has happened to that minimum?

I am not in favor of this subdivision. I feel it is short sighted and a minimum of Ten acres per site should stand.

Sincerely,

Hugh Good



# EXHIBIT C

COMMISSIONERS APPROVAL

CHILCOTT

LUND

THOMPSON

TAYLOR (Clerk & Recorder)

Date.....March 14, 2006

Members Present..... Commissioner Greg Chilcott,  
Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Glenda Wiles

The Board met for a Request for Commission Action on Mountain View Orchards Block 12, Lot B, AP Minor Subdivision with one variance request. Present at this meeting was Civil Counsel James McCubbin, Planner Ben Howell, Developer Steve Zech and the Developer's Consultant Leonard Shepherd. Also present were neighbors to this proposed subdivision, Mike and Nann Jorgensen.

Ben presented a power point presentation and staff report as follows:

.....

Commissioner Lund read the following statement:

Today's agenda includes one or more land use issues. Because of my years of service as Ravalli County Clerk & Recorder and now as Commissioner and because members of my family are involved in the real estate profession, I am providing this statement in the interest of full and open disclosure. My husband, son and brother-in-law are realtors who conduct business in this county. I do not participate in their real estate business or related matters except as the passive title owner of the building rented by their real estate business. Although connections with my family or their business and the land use issues facing us today are possible, I am not aware of any direct connections and thus do not believe I have any conflicts of interest arising out of my participation in today's meeting.

Commissioner Lund called for public comment.

Leonard stated the variance request was not approved as presented. It was modified in that the variance was at 30' and the width of the road is 20'. The reason is, this is a two lot local road. Steve stated when they proposed the two lot local road it was in accordance with the regulations at the time. This is a driveway not a road. Steve stated they would like the Commissioners to approve of this variance. Commissioner Lund stated this subdivision came under the old regulations.

Mike & Nann 1649 Mountain View Orchard Road stated they are not necessarily opposed to this subdivision but would like to know more about this. Mike stated they have issues about another road that 'dead ended' into their property over a year ago. They were here today to find out how the BCC deals with the roads in the area due to the growth. He stated they would like to learn about the covenants on this particular subdivision as it affects all of the properties in the area. Commissioner Lund stated this property has covenants placed on it in 2004 by Steve Zech. Steve stated when he purchased the property there were no covenants but he placed two pages of covenants on the property. He stated he is also concerned in keeping the values of the property values up. The square footage of the homes will be a minimum of 2,000 square feet. He also placed the septic and wells to allow for everyone to have views of the mountains.

Leonard stated the road standards are defined in the county regulations. There are some contradictions, but over all Mr. Jorgensen would have his answers after reading the regulations.

Public comment was now closed.

CT stated the application shows a boundary line relocation. Ben stated one of the original houses on the parcel was pulled out and given it's own lot. CT asked about the roads on a five lot Sutherland. Ben stated the regulations allow for common accesses, so this actually falls on a minor local. The Developer has applied for a 30' easement instead of the 60' with asphalt. CT advised the Developers not to apply for that, when the Fire Department needs more than a 12' road he will never grant approval for that narrow width for emergency services. In regard to the roads, he stated he is troubled with the three accesses from Sutherland which is a gravel road. Sutherland is a direct line between Bailey and Popham. Three accesses is excessive and if you are going to share common accesses Lot B-1- and B-2 should share, and the proposed road should access lots 3-4-&5. He asked if this still was a 60' easement with 20' width. Ben stated the regs call for 20' pavement with cul-de-sac. But they have called for a variance. CT stated the hammerheads do not allow for easy access of the fire trucks. He stated this is prime property and can see some very nice homes. He appreciates the covenants, but not does like the hammerhead in case of a fire emergency. CT asked about the high pressure gas line. Leonard stated it lies along the west side of Sutherland Road and does not come through the subdivision.

CL asked Leonard about the DEQ approval. There appears to be an existing well. Leonard stated that is for the house to the north. CL asked why there is 10' non egress and egress zones. Leonard stated it limits access to Sutherland. It limits the impact on Sutherland Road. This allows 6 homes for three accesses. Two of the lots access from an interior road. CL stated they are trying to have as few of accesses as possible. She stated Sutherland will become a crossroad in the future. Leonard stated one access existing, so they are only adding two accesses for five lots. CT stated they are adding three accesses because of the multiple traffic. Leonard stated unless they want an interior road, there has to be access to these lots.



Steve stated they are not considering this 12' as a road, but as a driveway. We designed this in order to minimize the access into Sutherland Road. James stated this goes to more than one lot so it is a road, not a driveway. The regulations specifically stated this. Ben concurred with this interpretation.

CT stated it appears that there are three accesses to the road. He stated he would like this to be reduced. He suggested Coyote Road could access three lots or to come across the back side and access all five. They could also share access lots one and 2 and the other road could access lots 3,4,&5. We need to look to the future and more houses in this area, creates more accesses. So we need to reduce the amount of accesses.

CL asked if the Commissioners could propose something to Steve or does he have to bring back another plat. James stated the BCC could propose options, but this is a fine line of a condition, or back to the public hearing process before the P.B. Any change of access is significant enough to go back to the P.B. A new plat will have to be drawn, so the BCC could discuss some options. You can not say here today, what is to be allowed, but you can discuss the options. Leave the specifics out, let that be decided in the public process.

Steve asked James if the P.B. recommended their approval. James stated the P.B. is simply a recommendation. The BCC can take as is or deny. If it is denied, then this will have to go back through the whole subdivision process.

CT stated the variance and subdivision are two different issues. The subdivision has covenants and approval from DEQ, no ground water issues, so he does not see a lot of problems with the subdivision itself. But the access is an integral part. So if we approve the subdivision and deny the variance, would it be 60' easement, with 20' width of pavement with cul-de-sac. Ben stated that would be the default. James in order to get to the lot B-2, without an access on the main exterior road, there has to be an interior road around the back or something. If there is no shared drive between B-2- and B-3, there must be an ingress to B-3. CT if the variance is denied, can they access all three lots, so can they condition this access to between lots 1 and 2. James stated you would still have three accesses. CT stated, no because that driveway still exists. James if you are changing the interior road, then it does not need to go back before public hearing. Leonard stated this follows the regulations and if they are required to go back to planning board, then the regulations need to be changed. They received no agency contacts that stated there is a public health and safety issue. They have followed the regulations and now the BCC feel they have created an unsafe conditions when they have followed the regulations.

Leonard stated you can move the interior road, but you still have three accesses. The BCC has not gained anything. Steve stated the septic areas are in front of the lots, and that is where the homes will be. Leonard stated the whole purpose for conditions is when the issues make the decision to go above and beyond. At any step in the process anything can be discovered and that is a BCC decision.

Leonard stated he understands the BCC has discretion. But on findings of fact, if the accesses can be modified, the purpose is to bring those facts forward. But there is nothing brought forward today that states this is an unsafe condition. James stated the anticipated increase traffic on Sutherland, creates a dangerous situation over time. That would need to be an written and expressed finding.

CT the variance request is because the developer does not want to build a particular type of road. This is within our discretion.

CL asked if they approved the variance, with a 60' easement, 20' surface and dust abatement. James stated that does not address the access issue. CL stated she does not want paving this rural area.

Ben stated the Road department does have their access policy adopted in January, and there is for one access for all five. CL but that was adopted after this subdivision. James stated if that policy is based on safety concerns then that is part of your findings. If you reduce the number of accesses, other than to shift them one access to the north, you need to send this back to the planning board.

CT stated it appears they need to go through the variance criteria. The developer needs to hear our findings so he knows what the issues are in order to go back to the Planning Board. James stated that is one way to do it, but if you want the developer to change the accesses, it has to go back to the planning board. The change in access will affect the variance. CT feels there are too many accesses on the road. They discussed farm trucks on the road, etc. at the p.b. meeting.

James stated you may have new information, and if so it goes back to the p.b. under SB 116. Impact of traffic, anticipating traffic on the road etc. allows them to take it back through the public hearing process. Thus it becomes clear to developer that you are not in favor of approving this. If the new information is not significant, then you can go through the variance.

CL stated the developer is caught in between the changes that has been made. Leonard was simply following the regulations this subdivision was under. James stated what is relevant is that you are anticipating more traffic and the road department finds the number of accesses for safety purposes. CL but most of this is contradictory.

Steve stated Sutherland Lane is a low impact road. It is not on the seven year plan to even be paved. So this does not have a high priority. Road counts are 130 per day, compared to 1,000 on other roads. It is used by local traffic. CT stated this is the fourth subdivision on this road over the past 4 years. Therefore I would assume there will be another 3-4 subdivisions. While it might be a rural road, over time there will be more lots and more traffic. With the upcoming issues, we will find pressure from the schools to do something with the road. This road will be in need of major work. He stated he does not want that many access due to the increased growth. He stated he wants to be consistent on all the accesses, nothing particular to this subdivision.

CT stated he is having a hard time finding how to approve the variance, and the number of accesses, then he does not see how he can approve the actual subdivision. The developer has put forth this plan so he does not have to build the road. There are regulations that show what you should do and you put forth how you should not have to build the road. James it sounds like this is new information so under SB 116, it needs to go back to P.B.

CT motion in light of information this date, move to send this subdivision be sent back to PB for further discussion and hearing. CL seconded for discussion. CL asked Ben if this can be expedited and not be put into the pile. Ben the soonest would be April 19<sup>th</sup> or so. Leonard stated what choice do they have, he is fairly flustered at this point. CL make every effort to get this back to P.B. All voted "aye".

